



AGENDA
RIO DELL PLANNING COMMISSION
REGULAR MEETING
TUESDAY, JANUARY 28, 2020 – 6:30 P.M.
CITY HALL COUNCIL CHAMBERS
675 WILDWOOD AVENUE, RIO DELL

WELCOME.....*By your presence in the City Council Chambers, you are participating in the process of representative government. Copies of this agenda, staff reports and other material available to the Commission are available at the City Clerk's office in City Hall, 675 Wildwood Avenue. Your City Government welcomes your interest and hopes you will attend and participate in Rio Dell Planning Commission meetings often.*

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. CEREMONIAL MATTERS

- 1) 2020/0128.01 - Announcement of the Reappointment of Planning Commissioners
Millington, Wilson and Arsenault to 3-Year Terms Ending
December 31, 2022 1

E. CONSENT CALENDAR

- 1) 2020/0128.02 - Approve Minutes of the September 24, 2019 Regular Meeting
(ACTION) 2

F. PUBLIC PRESENTATIONS

This time is for persons who wish to address the Commission on any matter not on this agenda and over which the Commission has jurisdiction. As such, a dialogue with the Commission or staff is not intended. Items requiring Commission action not listed on this agenda may be placed on the next regular agenda for consideration if the Commission directs, unless a finding is made by at least 2/3rds of the Commission that the item came up after the agenda was posted and is of an urgency nature requiring immediate action. Please limit comments to a maximum of 3 minutes.

G. SCHEDULED MATTERS/PUBLIC HEARINGS/STUDY SESSIONS

- 1) 2020/0128.03 - Adopt Resolution No. PC 143-2020 Recommending the City
Council Repeals Section 17.30.290, Second Dwelling Units,
Section 17.30.190, Medical Marijuana Regulations, Establishing
Section 17.30.020, Accessory and Junior Accessory Dwelling
Units, and Renumbering Chapter 17.30, General Provisions and
Exceptions of the Rio Dell Municipal Code **(ACTION)** 3

H. STAFF COMMUNICATIONS

I. ADJOURNMENT



In compliance with the American with Disabilities Act (ADA), if you need Special assistance to participate in this meeting, please contact the Office of the City Clerk at (707) 764-3532. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

***The next Regular Planning Commission meeting is scheduled for
Tuesday, February 25, 2020 at 6:30 p.m.***



*675 Wildwood Avenue
Rio Dell, CA 95562*

TO: Rio Dell Planning Commission

FROM: Karen Dunham, City Clerk

DATE: January 28, 2020

SUBJECT: Planning Commission Appointments

RECOMMENDATION

Announce the reappointment of Jacqui Wilson, Alice Millington (Planning Commissioners) and Larry Arsenault (Planning Commission Alternate) on the Rio Dell Planning Commission for three-year terms ending December 31, 2022.

BACKGROUND AND DISCUSSION

There were three vacancies on the Rio Dell Planning Commission as the result of terms that expired on 12/31/19. A Notice of Vacancy was posted on December 29, 2019 with the final date for submission of applications being January 16, 2020.

The only applications received were from the three members whose terms expired on December 31, 2019 which were:

- Jacqui Wilson
- Alice Millington
- Larry Arsenault

At the January 21, 2020 regular meeting of the Rio Dell City Council, the Council voted unanimously to approve the reappointment of the above commissioners. Staff is recommending forgoing the swearing-in since no new members were appointed.

**RIO DELL PLANNING COMMISSION
REGULAR MEETING MINUTES
SEPTEMBER 24, 2019**

CALL TO ORDER

Commissioner Angeloff called the regular meeting of the Rio Dell Planning Commission to order at 6:30 p.m.

Present were Commissioners Angeloff, Kemp, Marks, and Wilson. Absent were Planning Commissioner Millington and Planning Commission Alternate Arsenault.

Others present were Community Development Director Caldwell and City Clerk Dunham.

CONSENT CALENDAR

Planning Commission Chair Angeloff asked if any Planning Commissioner or member of the public had any questions or corrections to the minutes as presented. There were no comments.

Approve Minutes of the August 27, 2019 Regular Meeting

Motion was made by Marks/Kemp to approve the minutes of the August 27, 2019 regular meeting as submitted. Motion carried 4-0.

PUBLIC PRESENTATIONS

None

SCHEDULED MATTERS/PUBLIC HEARINGS/STUDY SESSIONS

Commissioner Wilson disclosed that she owned property within 300 feet of the proposed project but that she would have no financial gain from the business so would not need to recuse her from the discussion.

Resolution No. PC-141-2019 Approving Proper Wellness Center Cannabis Retail Sales Conditional Use Permit (CUP) at 116 Wildwood Ave. – File No. 053-161-021 – Case No. CCLUO No. 19-01

Community Development Director Caldwell provided a staff report and explained that the City Council authorized up to three potential retail cannabis operators in the Town Center. The City issued Request for Proposals (RFP's) in which six

RIO DELL PLANNING COMMISSION
SEPTEMBER 24, 2019
Page 2

proposals were received. Proper Wellness was one of the three selected to make application. He noted that Proper Wellness has an established retail cannabis business on 5th Street in Eureka and plans on locating another business in Rio Dell at 116 Wildwood Ave., the former Lola's Mexican Restaurant.

He referred to the Conditions of Approval 1-13 as submitted and recommended the following modifications:

14. Eliminate last parking stall near alley. The purpose of the condition is to avoid use of the alley to access the loading area.
15. The alley shall not be used for ingress and egress to and from the facility.
16. Exterior lighting shall be provided for the parking area. Each light fixture shall be directed downward and away from adjoining properties and public rights-of-way so that no on-site light fixture directly illuminates adjacent properties.

Commissioner Marks referred to the staff report under (ix) related to surveillance recordings and asked if the Police Department would have access to the recordings if needed for a possible investigation.

The applicant responded that they are required to maintain recordings for 90 days and that they would gladly share information with the police department.

Commissioner Marks asked if there would be exterior lighting on all sides of the building.

Community Development Director Caldwell indicated that there would be.

Commissioner Kemp asked if the purchase of cannabis products such as oils, creams and tinctures required a prescription.

The applicant explained that only products containing over a certain amount of THC require prescriptions.

Commissioner Angeloff asked if the proposed parking plan meets current zoning requirements.

**RIO DELL PLANNING COMMISSION
SEPTEMBER 24, 2019**

Page 3

Community Development Director Caldwell noted that the project as conditioned provides for the required parking spaces including one ADA compliant parking space.

Commissioner Angeloff opened the public hearing to receive public input on the proposed Conditional Use Permit.

Warren Jackson, 130 Wildwood Ave., addressed the Commission and began by stating that he did not receive a notice of the public hearing. He expressed concern regarding structural safety of the building, drainage, plumbing, trash along the street and parking. He commented that he did not have a problem with the use of the building for retail cannabis but said he would like to make sure the business owner keeps the area around the building clean.

Commissioner Angeloff thanked Mr. Jackson for his comments and for maintaining his building and displaying art in his empty commercial building. He explained that the business owner would be required to maintain the building and it should be an improvement to the downtown.

Tara Gurley, founder of Proper Wellness, addressed the Commission and thanked the City for allowing them to operate in Rio Dell. She said that they recently opened a business in Eureka and their promise to the City of Eureka was that they would try to deter problems and make their business safe and inviting. She said their hope is to do the same thing in Rio Dell.

There being no further public comment, the public hearing closed.

Motion was made by Kemp/Marks to approve Resolution No. PC-141-2019 approving Proper Wellness Center Cannabis Retail Sales Conditional Use Permit (CUP) at 116 Wildwood Ave. with the modifications to the Conditions of Approval as recommended. Motion carried 4-0.

Resolution No. PC-142-2019 Approving Element 7 Conditional Use Permit (CUP) for Cannabis Retail Sales at 307 Wildwood Ave. – File No. 053-141-050 – Case No. CCLUO No. 19-02

Community Development Director Caldwell provided a staff report and explained that Element 7 was also one of the three cannabis retailers selected to make application to operate in the City. Their plan is to occupy 307 Wildwood Ave., next

**RIO DELL PLANNING COMMISSION
SEPTEMBER 24, 2019**

Page 4

to the Rio Dell Post Office. He noted that the applicant is proposing some exterior modifications, including removing the front porch, two roofline changes, new windows and siding treatments. The proposed parking is to be located behind the building and accessed from Ash Street. There will be one ADA compliant parking space with an improved path of travel from the space to the entry of the building, as well as two additional parking spaces. In addition, staff is recommending that the portion of the parcel along Ash Street be improved with curb, gutter and sidewalk.

Staff referred to the Conditions of approval 1-18 as submitted and recommended one additional condition as follows:

19. Exterior lighting shall be provided on the north side of the building. Each light fixture shall be directed downward and away from adjoining properties and public rights-of-way and so that no on-site light fixture directly illuminates adjacent properties.

Community Development Director Caldwell referred to the proposed building modifications and said that because the building is around 70 years old, staff reached out to the Office of Historic Preservation regarding any concerns they may have, but staff had not received a response.

Commissioner Angeloff opened the public hearing to receive public input on the proposed Conditional Use Permit.

Joe Madson, 65 Ash St. addressed the Commission and expressed concern regarding increased traffic on Ash St. and the safety of small children in the neighborhood, and concern about customers parking in front of residences on Ash St.

Jimmie Sutton and one other unidentified resident residing in the Belleview Ave. area echoed those same concerns.

Jennifer Henson from Element 7 said that she was not aware of the situation with children in the area and agreed to take the comments back to the table and try to address their concerns.

RIO DELL PLANNING COMMISSION
SEPTEMBER 24, 2019
Page 5

Commissioner Marks suggested, as a way to address the issue of parking on Ash St., to see if any of the vehicles currently parked on the street are illegally parked.

Community Development Director Caldwell reiterated that the applicant is proposing to include one ADA compliant parking space as well as two additional parking spaces. In addition, the City Parking Lot is located 100 feet away so customers would be able to utilize that. He indicated that staff would talk to the Police Department and ask them to address any illegally parked vehicles on Ash St. He also suggested the curb at the corner of Ash St. and Wildwood Ave. be painted red to improve visibility for vehicles.

He explained that notices of the public hearings were sent to property owners with the hope they would inform tenants of the public hearings.

Frank Wilson commented that he lived on Ash St. for six years and because Ash St. is so narrow, he turned onto Wildwood Ave. from Cedar St., which was not an inconvenience.

It was suggested the Traffic Committee meet and discuss options for Ash St.

Commissioner Kemp commented that he used to have an office at 278 Wildwood Ave., which was adjacent to Ash St. and agreed that Ash St. is a problem street. He noted that kids play basketball in the City right-of-way, which makes it even more problematic.

He said with regard to the proposed modifications to the building, although it is a nice design, he would like to see it look less modern and more like the Green Bean building.

Commissioner Angeloff noted that coming from an archeological perspective, there are various themes in the Town Center and he would welcome the addition of a more modern design pointing out that it is a big improvement to what is there now.

Community Development Director Caldwell pointed out that the applicant is not obligated to go forward with any specific design.

Commissioner Wilson suggested the possibility of Ash St. becoming a one-way street

**RIO DELL PLANNING COMMISSION
SEPTEMBER 24, 2019
Page 6**

and said that she was excited to see the cannabis dispensaries moving forward.

Commissioner Angeloff commented that if the Office of Historic Preservation gets involved, they might not be able to move forward with the design as proposed. He asked if there were any issue with the north entrance from Wildwood Ave.

Community Development Director Caldwell said that it does not appear that the driveway will comply with zoning specifications so the applicant may need to apply for a variance. In addition, there is a power pole near the corner, which is problematic. He indicated that he would discuss the issues with the City Manager and perhaps schedule a meeting of the Traffic Committee.

Commissioner Kemp stated for clarification that he was happy to see the project moving forward and that the applicant is willing to invest that much money in the City.

Commissioner Angeloff commented that they could capture a western theme in a modern sense by adding some redwood treatments to the design.

Community Development Director Caldwell explained that the applicant would not have to bring the design back to the Planning Commission for approval if they were to make minor modifications such as redwood treatments on the front of the building.

Tara Gurley from Proper Wellness Center addressed the Commission regarding the proposed changes to the design of the building and said that each of the businesses represent distinct differences and expressed the desire for each of them to have their own brand.

There being no further public comment, the public hearing closed.

Motion was made by Marks/Kemp to approve Resolution No. PC-142-2019 approving Element 7 Conditional Use Permit (CUP) for Cannabis Retail Sales at 307 Wildwood Ave. with the modification to the Conditions of Approval as recommended. Motion carried 4-0.

STAFF COMMUNICATIONS

**RIO DELL PLANNING COMMISSION
SEPTEMBER 24, 2019
Page 7**

Community Development Director Caldwell reported on the forecast for the next meeting on October 22, 2019 and said that he hoped to present to the Commission, the final version of the Housing Element.

ADJOURNMENT

The meeting adjourned at 7:25 p.m. to the October 22, 2019 regular meeting.

Nick Angeloff, Chair

Attest:


Karen Dunham, City Clerk

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



For Meeting of: January 28, 2020

To: Planning Commission

From: Kevin Caldwell, Community Development Director 

Through: Kyle Knopp, City Manager

Date: January 24, 2020

Subject: Ordinance No. 379-2020 repealing Section 17.30.290, Second dwelling units, Section 17.30.190, medical marijuana regulations, establishing Section 17.30.020 Accessory Dwelling Units, and renumbering Chapter 17.30 General Provisions and Exceptions of the Rio Dell Municipal Code (RDMC).

Recommendation:

That the Planning Commission:

1. Receive staff's report regarding repealing Section 17.30.290, Second Dwelling Units, Section 17.30.190, Medical Marijuana regulations, establishing Section 17.30.020 Accessory Dwelling Units, and renumbering Chapter 17.30 General Provisions and Exceptions of the Rio Dell Municipal Code (RDMC); and
2. Open the public hearing, receive public input and deliberate; and
3. Find that:
 - (a) The proposed text amendments are consistent with the General Plan; and
 - (b) The proposed text amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA);
4. Adopt Resolution No. PC 143-2020 recommending that the City Council adopt Ordinance No. 379-2020 repealing Section 17.30.290, Second dwelling units, Section 17.30.190, Medical Marijuana regulations, establishing Section 17.30.020 Accessory

Dwelling Units, and renumbering Chapter 17.30 General Provisions and Exceptions of the Rio Dell Municipal Code (RDMC).

Background

In October of 2019, Governor Newsom signed five bills of legislation into law to further relax restrictions on the development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) in California. The State regulations, Section 65852.2 of the Government Code, are included as Attachment 1.

The legislation further limitations on the abilities of municipalities to restrict ADUs. In particular, the legislation: 1) requires that an ordinance allow a minimum 850 square foot ADU for a one bedroom ADU; 2) requires a minimum 1,000 square foot ADU if the unit contains more than one bedroom; 3) precludes a municipality from requiring an owner occupancy requirement for either the primary unit or the ADU/JADU; 4) prevents a jurisdiction from requiring off-street replacement parking spaces when a garage, carport, or covered parking is converted to an ADU or demolished in conjunction with the construction of an ADU (there are exceptions based traffic flow and public safety); 5) requires approval, by right, of an accessory dwelling unit that is up to 800 square feet and at least 16 feet in height with a 4 foot side setback and 4 foot side yard setback without consideration of lot coverage, floor area ratio, open space, or minimum lot size for either attached or detached ADUs; 6) requires local jurisdictions to permit the creation of both one ADU and one JADU on each residentially zoned parcel with a proposed or existing single family dwelling; and 7) requires local jurisdictions to permit the creation of ADU(s) on each residentially zoned parcel that includes a multi-family dwelling.

In response to the State legislation, staff is recommending repealing the City's existing Second Dwelling Unit regulations and establishing Accessory Dwelling Unit and Junior Accessory Dwelling Unit regulations consistent with the State's regulations. The recommended changes are included in Ordinance 379-2020, Attachment 2.

The term "Junior Accessory Dwelling Unit" is generally used to identify a specific type of second unit that results from the conversion of an existing bedroom within an existing single family structure. This is in contrast to a more traditional type of second unit, created through the addition of new floor area and either attached or detached to an existing structure. JADUs are further differentiated from traditional second units by less stringent planning, building and utility requirements placed upon them and a maximum size limitation of 500 square feet.

The State regulations do allow local jurisdictions to deviate from the State requirements based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. Based on comments from the Fire Protection District, staff is recommending that current parking standards be applied in the "Avenues" neighborhood, and that a Conditional Use Permit be required for accessory dwelling units on the Dinsmore Plateau and the Rio Vista neighborhood based on dead end road access, road widths and lack of fire hydrants. In addition, staff is recommending that a Conditional Use Permit be required for accessory dwelling units (new structures) in the Belleview/Ogle neighborhood due to flooding during storm events. Applicants

will have to incorporate on-site retention/detention drainage facilities so there is no net increase in stormwater runoff.

Staff is also recommending that the Medical Marijuana Regulations be repealed as well. The Medical Marijuana Regulations were established prior to the City Commercial Cannabis Land Use Ordinance. The Commercial Cannabis Land Use Ordinance addresses both medical and adult cannabis regulations within the City.

Zone Reclassification Required Findings

1. The proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected.

There are no policies in the General Plan which would prohibit amending the zoning regulations to reflect changes in State law regarding Accessory Dwelling Units.

2. The proposed amendments have been processed in accordance with the California Environmental Quality Act (CEQA).

Based on the nature of the project, staff has determined that the project is Statutorily Exempt pursuant to Section 15303, New Construction or Conversion of Small Structures Section 15061(b)(3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.

Pursuant to Section 15061(b)(3) of the CEQA Guidelines this exemption is covered by the general rule that CEQA applies only to projects which have the potential for causing a **significant** effect on the environment. Where it can be seen with certainty that there is no possibility that the project in question may have a significant effect on the environment, the project is not subject to CEQA. Based on the nature of the proposed amendments and Section 15303 of the CEQA Guidelines, staff believes there is no evidence to suggest that the amendments will have a **significant** effect on the environment.

Attachments

Attachment 1: Section 65852.2 of the Government Code.

Attachment 2: Draft Ordinance No. 379-2020 repealing Section 17.30.290, Second dwelling units, Section 17.30.190, Medical Marijuana regulations, establishing Section 17.30.020 Accessory Dwelling Units, and renumbering Chapter 17.30 General Provisions and Exceptions of the Rio Dell Municipal Code (RDMC).

Attachment 3: Resolution No. PC 143-2020 recommending that the City Council repeal Section 17.30.290, Second dwelling units, Section 17.30.190, Medical Marijuana regulations, establishing Section 17.30.020 Accessory Dwelling Units, and renumbering Chapter 17.30 General Provisions and Exceptions of the Rio Dell Municipal Code (RDMC).



GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (*Heading of Title 7 amended by Stats. 1974, Ch. 1536.)*

DIVISION 1. PLANNING AND ZONING [65000 - 66301] (*Heading of Division 1 added by Stats. 1974, Ch. 1536.)*

CHAPTER 4. Zoning Regulations [65800 - 65912] (*Chapter 4 repealed and added by Stats. 1965, Ch. 1880.)*

ARTICLE 2. Adoption of Regulations [65850 - 65863.13] (*Article 2 added by Stats. 1965, Ch. 1880.)*

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50

percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall

thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in

height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

- (1) The accessory dwelling unit is located within one-half mile walking distance of public transit.
- (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for

the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot,

lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

(Amended by Stats. 2019, Ch. 659, Sec. 1.5. (AB 881) Effective January 1, 2020. Repealed as of January 1, 2025, by its own provisions. See later operative version added by Sec. 2.5 of Stats. 2019, Ch. 659.)

ORDINANCE NO. 379-2020



AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIO DELL REPEALING SECTION 17.30.290, SECOND DWELLING UNITS, SECTION 17.30.190, MEDICAL MARIJUANA REGULATIONS, ESTABLISHING SECTION 17.30.020 ACCESSORY AND JUNIOR ACCESSORY DWELLING UNITS, AND RENUMBERING CHAPTER 17.30 GENERAL PROVISIONS AND EXCEPTIONS OF THE RIO DELL MUNICIPAL CODE

WHEREAS, In October of 2019, Governor Newsom signed five bills of legislation into law to further relax restrictions on the development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) in California; and

WHEREAS, The most significant pieces of legislation include Assembly Bills 68 and 881 as well as Senate Bill 13 changed the minimum/maximum sizes for Accessory Dwelling Units, owner occupancy requirements, applicable impact fees, setbacks, height limitations, and more; and

WHEREAS, Accessory Dwelling Units are also known as second dwelling units, in-law units, granny flats, and/or mother-in-law quarters; and

WHEREAS, ADUs are defined as complete independent dwelling units that have permanent provisions for living, sleeping, eating, cooking, and sanitation located on the same property as a single-family home; and

WHEREAS, ADUs may either be attached or detached from the primary home and/or include a conversion of existing legal space on the property; and

WHEREAS, ADUs/JADUs provide housing opportunities in a flexible manner to address the unmet demand for affordable housing for the Hayward community, including but not limited to, students, young professionals, small families, disabled individuals, senior citizens, etc. while

also assisting homeowners to offset the cost of homeownership and maintenance by renting out ADUs as an additional source of income; and

WHEREAS, the existing Second Dwelling Unit regulations will be replaced with the new Accessory Dwelling Unit regulations; and

WHEREAS, the Medical Marijuana regulations were replaced with the Commercial Cannabis regulations and therefore need to be repealed; and

WHEREAS, the recommended changes necessitate the renumbering of Chapter 17.30, General Provisions and Exceptions of the Rio Dell Municipal Code.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Rio Dell does hereby ordain as follows:

SECTION 1.

PURPOSE OF THE ZONING REGULATION AMENDMENTS

The Rio Dell Municipal Code is hereby amended to be consistent with California Government Code Section 68582.2 with respect to Accessory Dwelling Units. The ordinance also repeals Section 17.30.290, Second Dwelling Units, Section 17.30.190, Medical Marijuana Regulations, establishes Section 17.30.020, Accessory Dwelling Units and renumbers Chapter 17.30, General Provisions and Exceptions, to accommodate the text amendments.

SECTION 2.

Section 17.30.290, Second Dwelling Units is hereby repealed.

SECTION 3.

Section 17.30.190, Medical Marijuana regulations is hereby repealed.

SECTION 4.

Chapter 17.30 is hereby renumbered as follows:

Chapter 17.30
GENERAL PROVISIONS AND EXCEPTIONS

Section	Existing Provision	Section	Changes Provision
17.30.010	Applicability	17.30.010	Applicability
17.30.020	Accessory uses and buildings.	17.30.020	Accessory dwelling units
17.30.030	Adult entertainment.	17.30.030	Accessory uses and buildings.
17.30.040	Airports.	17.30.040	Adult entertainment.
17.30.050	Animals and animal shelters.	17.30.050	Airports.
17.30.060	Assemblages of persons and vehicles.	17.30.060	Animals and animal shelters.
17.30.070	Camping.	17.30.070	Assemblages of persons and vehicles.
17.30.080	Cottage industry.	17.30.080	Camping.
17.30.090	Density bonus.	17.30.090	Commercial cannabis land use regulations.
17.30.100	Emergency shelter/transitional housing regulations	17.30.100	Cottage industry.
17.30.110	Environmentally sensitive habitat areas (ESHAs)	17.30.110	Density bonus.
17.30.120	Fences, walls and screening.	17.30.120	Emergency shelter/transitional housing regulations
17.30.130	Flag lots.	17.30.130	Environmentally sensitive habitat areas (ESHAs)
17.30.140	Flood zone regulations.	17.30.140	Fences, walls and screening.
17.30.150	Home occupation businesses and address of convenience.	17.30.150	Flag lots.
17.30.160	Lot size modifications.	17.30.160	Flood zone regulations.
17.30.170	Manufactured/mobile homes on individual lots.	17.30.170	Home occupation businesses and address of convenience.
17.30.180	Manufactured/mobile home park development standards.	17.30.180	Lot size modifications.
17.30.190	Medical marijuana regulations.	17.30.190	Manufactured/mobile homes on individual lots.
17.30.195	Commercial cannabis land use regulations.	17.30.200	Manufactured/mobile home park development standards.
17.30.200	Nonconforming uses.	17.30.210	Nonconforming uses.
17.30.210	Repealed.	17.30.220	Parking regulations.
17.30.220	Parking regulations.	17.30.230	Parkland dedication.

17.30.230	Parkland dedication.	17.30.240	Personal cannabis cultivation regulations.
17.30.240	Personal cannabis cultivation	17.30.250	Public uses.
17.30.250	Public uses.	17.30.260	Public utility buildings and uses.
17.30.260	Public utility buildings and uses.	17.30.270	Quasi-public uses.
17.30.270	Quasi-public uses.	17.30.280	Recreational vehicle park development standards.
17.30.280	Recreational vehicle park development standards.	17.30.290	Removal of natural materials.
17.30.290	Removal of natural materials.	17.30.300	Second dwelling units.
17.30.300	Second dwelling units.	17.30.310	Signs and nameplates.
17.30.310	Signs and nameplates.	17.30.320	Street dedication and improvement.
17.30.320	Street dedication and improvement.	17.30.330	Swimming pools.
17.30.330	Swimming pools.	17.30.340	Tract offices.
17.30.340	Tract offices.	17.30.350	Vacation dwelling units.
17.30.350	Vacation dwelling units.		Yards.
17.30.360	Yards.		

SECTION 5.

Section 17.30.020, Accessory Dwelling Units, of the Rio Dell Municipal Code is hereby established as follows

17.30.020 ACCESSORY DWELLING UNITS

(1) PURPOSE

The purpose of these regulations is to be consistent with California Government Code Section 68582.2 with respect to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs).

Accessory dwelling units may be principally permitted in any zone that allows single family or multifamily dwelling residential use and includes a proposed or existing dwelling, if the General Provisions in Section 17.30.020(2) are met, and the ADU and/or JADU meets the Development Regulations and Standards of Section 17.30.030(3).

ADUs and/or JADUs may be excluded or may require a Conditional Use Permit in certain designated areas (ADU Conditional Use Permit Area) as described in Section 17.30.020(4) based

on adequacy of water and sewer services, drainage and the impact of accessory dwelling units on traffic flow and public safety. Outside the ADU and/or JADU Conditional Use Permit Area, an ADU and/or JADU that cannot meet all the criteria in Sections 17.30.020(3) and 17.30.020(4) may still be permitted with a Conditional Use Permit under certain circumstances.

The City shall act on the building permit application for an accessory dwelling unit within 20 days from the date the completed application is received if there is an existing single-family or multifamily dwelling on the lot.

No certificate of occupancy will be issued for an accessory dwelling unit constructed concurrently with a primary dwelling, before a certificate of occupancy is issued for the primary dwelling.

(2) GENERAL PROVISIONS THAT APPLY TO ALL ADUS. The following provisions apply to all ADUs.

(a) One ADU and one JADU per lot.

One ADUs is permitted per lot developed or proposed to be developed with a single-family or multifamily dwelling.

(b) Ownership.

An ADU and/or JADU shall not be sold separately from the principal dwelling.

(c) Renting Permitted.

The ADU and/or JADU may, but need not be, rented.

(d) Short-term Lodging Prohibited.

The ADU and/or JADU shall not be rented for periods of 30 days or less.

(e) Building Type.

The ADU and/or JADU may be within, attached to, or detached from, the existing or proposed principal residence and may be over a garage. An ADU may also be a manufactured home as defined in Section 18007 of the Health and Safety Code subject to the development standards in Section 17.30.190.

(f) Sewer and Water Service.

All new ADUs and/or JADU within 300 feet of existing wastewater facilities shall connect to City's public wastewater systems. Parcels greater than 300 feet from existing wastewater facilities shall comply with all applicable County Health Department requirements for sewage disposal. All new ADU's shall connect to the City's public water system.

(g) Existing Single-Family Residence

Where one single-family dwelling unit exists on a lot, a larger home may be constructed as the principal dwelling unit, and the existing unit treated as the ADU, provided all other development regulations and standards can be met for both units.

(h) ADU and JADU Configurations within Residential and Mixed Use Zones

For purposes of this Section, a junior accessory dwelling unit is an attached unit as defined in Govt. Code Section 65852.22. A building permit shall be ministerially approved for creation of any of the following, within a residential or mixed use zone:

(i) ADU or JADU within Existing Single Family Structure

(ii) One accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(III) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(IV) The space has separate exterior access from the proposed or existing single-family dwelling.

(V) The side and rear setbacks are sufficient for fire and safety as established either by the local fire authority, for fire response.

(VI) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(i) New Detached ADU

One detached, new construction, accessory dwelling unit with minimum **four-foot side and rear yard setbacks** for a lot with a proposed or existing single-family dwelling. The detached accessory dwelling unit may be combined with an accessory dwelling unit or a junior accessory dwelling unit within an existing single family structure or accessory structure as described in subsection 17.30.020(2)(h) if:

(i) The attached ADU or JADU contains no more than 500 square feet of floor space; and

(ii) The detached ADU contains no more than 800 square feet of floor space, and its height is no more than 16 feet. See Section 17.30.020(3)(b), Total Floor Area for detached ADUs that exceed 800 square feet.

(j) ADUs in Existing Multifamily Structures

Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings. At least one accessory dwelling unit is allowed within an existing multifamily dwelling, and up to 25 percent of the existing multifamily dwelling units may be allowed.

(k) Detached ADUs with Existing Multifamily Structures

Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling, subject to a **height limit of 16 feet and four foot rear yard and side setbacks.**

(3) DEVELOPMENT REGULATIONS, STANDARDS, AND APPLICABLE CODES.

The following development regulations and standards shall apply to all ADUs:

(a) Utilities.

Utilities may be shared in common with or separate from the main dwelling unit, whichever method may afford compliance with the applicable requirements of the Municipal Code, including the currently effective versions of the California Building Codes, except that:

(i) Connection and Capacity Fees

An accessory dwelling unit shall not be considered to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, except for water and sewer services as set forth in Section 17.30.020(3)(a)(iv) unless the accessory dwelling unit was constructed with a new single-family dwelling.

(ii) Impact Fees.

The City shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit. For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" as defined in subdivision (b) of Govt. Code Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(iii) No New Connections in Existing Structures

No new or separate utility connection is shall be required between the ADU and the utility, and no related connection fee or capacity charge shall be imposed if the ADU is contained within the existing space of a single family residence or accessory structure and meets conditions in Section 17.30.020(2)(h) unless the accessory dwelling unit was constructed with a new single family dwelling.

(iv) New Detached Units.

For an accessory dwelling unit that is not contained within the existing space of a single family residence or existing accessory structure or does not meet conditions in Section 17.30.020(2)(h) will require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section Govt. Code Section 66013, the connection may be subject to a connection fee or capacity charge that is proportionate to the burden of the proposed accessory dwelling unit upon the water or sewer system, based upon either size or the number of plumbing fixtures, its size in square feet or its drainage fixture unit (DFU) values, as defined in the California Plumbing Code which is based on the International Association of Plumbing and Mechanical Officials. This fee or charge shall not exceed the reasonable cost of providing this service.

(b) Total Floor Area.

Accessory dwelling units shall be subject to the following floor area requirements:

(i) Parcels That Cannot Be Subdivided. The size of the second dwelling unit shall not exceed 50 percent of the size of the primary dwelling unit up to a maximum of 1,200 square feet, except for second dwelling units located within the suburban and rural zones where the second dwelling unit shall not exceed 50 percent of the primary dwelling unit.

(ii) Parcels That Can Be Subdivided. The size of the second dwelling unit shall not be restricted, provided the applicant submits a development plan demonstrating that the parcel could be subdivided and both residences can be sited on separate parcels and meet setback and lot coverage requirements of the zone.

(c) Sprinklers

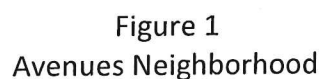
Accessory dwelling units are not required to provide fire sprinklers if they are not required for the primary residence.

(d) Setbacks

No setback shall be required for an ADU or a portion of an ADU, converted from an existing living area or accessory structure, or a structure constructed in the same location and to the same setbacks as an existing structure. A setback of no more than four feet from the side and rear lot lines shall be required for a new ADU.

Each ADU requires one (1) parking space. These spaces may be provided in tandem on a driveway. Off street parking shall be permitted in setback areas or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(ii) Avenues Neighborhood. Because of the existing on street parking problems and narrow roads affecting traffic flow and/or public safety conditions in the Avenue Neighborhood, there are no exceptions to the parking standards in Section 17.30.220.



(4) ADU CONDITIONAL USE PERMIT AREAS.

Parcels located on the Dinsmore Plateau, including the Rio Vista neighborhood and the Belleview/Ogle neighborhood are subject to development constraints, including dead-end roads, adequate road widths, lack of fire hydrants and drainage issues. Because of these public safety conditions, an ADU may be allowed on the Dinsmore Plateau and in the Rio Vista neighborhood with a Conditional Use Permit provided the concerns of the Fire District are satisfied. An ADU may be allowed in the Belleview/Ogle neighborhood provided there is no net increase in stormwater. These areas are identified in Figure 2.

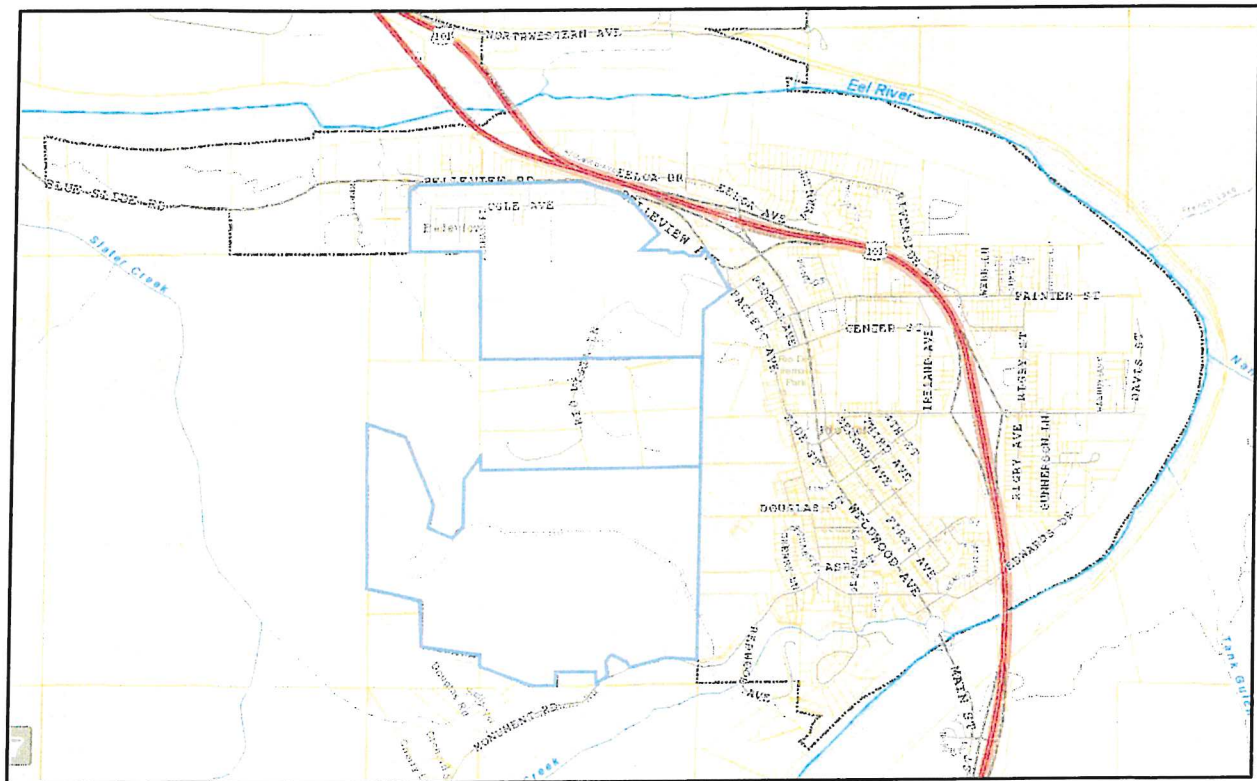


Figure 2

Dinsmore Plateau, Rio Vista neighborhood and the Belleview/Ogle neighborhood

SECTION 6. DEFINITIONS

Chapter 17.10, Definitions, of the Rio Dell Municipal Code is hereby amended as follows:

“Accessory Dwelling Unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons, that includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot where a single family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes a manufactured home, as defined in Section 18007 of the Health and Safety Code.

SECTION 7. LIMITATION OF ACTIONS

Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

SECTION 8. CEQA COMPLIANCE

The City Council has determined that the adoption of this ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15303, New Construction or Conversion of Small Structures and Section 15061(b)(3) of the CEQA Guidelines.

SECTION 9. EFFECTIVE DATE

This ordinance becomes effective thirty (30) days after the date of its adoption.

I hereby certify that the forgoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Rio Dell on February 4, 2020 and furthermore the forgoing Ordinance was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell on February 18, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Debra Garnes, Mayor

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and forgoing to be a full, true and correct copy of Ordinance No. 379-2020 which was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell on February 18, 2020.

Karen Dunham, City Clerk, City of Rio Dell

RESOLUTION NO. PC 143-2020



**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIO DELL
RECOMMENDING THAT THE CITY COUNCIL ADOPT ORDINANCE NO. 379-2020
REPEALING SECTION 17.30.290, SECOND DWELLING UNITS, SECTION 17.30.190,
MEDICAL MARIJUANA REGULATIONS, ESTABLISHING SECTION 17.30.020
ACCESSORY DWELLING UNITS, AND RENUMBERING CHAPTER 17.30 GENERAL
PROVISIONS AND EXCEPTIONS OF THE RIO DELL MUNICIPAL CODE (RDMC).**

WHEREAS, In October of 2019, Governor Newsom signed five bills of legislation into law to further relax restrictions on the development of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) in California; and

WHEREAS, The most significant pieces of legislation include Assembly Bills 68 and 881 as well as Senate Bill 13 changed the minimum/maximum sizes for Accessory Dwelling Units, owner occupancy requirements, applicable impact fees, setbacks, height limitations, and more; and

WHEREAS, Accessory Dwelling Units are also known as second dwelling units, in-law units, granny flats, and/or mother-in-law quarters; and

WHEREAS, ADUs are defined as complete independent dwelling units that have permanent provisions for living, sleeping, eating, cooking, and sanitation located on the same property as a single-family home; and

WHEREAS, ADUs may either be attached or detached from the primary home and/or include a conversion of existing legal space on the property; and

WHEREAS, ADUs/JADUs provide housing opportunities in a flexible manner to address the unmet demand for affordable housing for the Hayward community, including but not limited to, students, young professionals, small families, disabled individuals, senior citizens, etc. while

also assisting homeowners to offset the cost of homeownership and maintenance by renting out ADUs as an additional source of income; and

WHEREAS, the existing Second Dwelling Unit regulations will be replaced with the new Accessory Dwelling Unit regulations; and

WHEREAS, the Medical Marijuana regulations were replaced with the Commercial Cannabis regulations and therefore need to be repealed; and

WHEREAS, the recommended changes necessitate the renumbering of Chapter 17.30, General Provisions and Exceptions, of the Rio Dell Municipal Code.

WHEREAS the City has reviewed and processed the proposed text amendments in conformance with Sections 65350 – 65362 of the California Government Code; and

WHEREAS the City has reviewed and processed the proposed amendments in conformance with Section 17.35.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendments are consistent and compatible with the General Plan and any implementation programs that may be affected; and

WHEREAS the proposed amendments have been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Rio Dell finds that:

1. The proposed amendments are consistent with the General Plan and any applicable specific plan; and
2. The proposed amendments are Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission of the City of Rio Dell recommends that the City Council approve the proposed amendments.

I HEREBY CERTIFY that the forgoing Resolution was PASSED and ADOPTED at a regular meeting of the Planning Commission of the City of Rio Dell on January 28, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Nick Angeloff, Chairperson

ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and foregoing to be a full, true and correct copy of Resolution No. PC 134-2020 which was adopted by the Planning Commission of the City of Rio Dell on January 28, 2020.

Karen Dunham, City Clerk, City of Rio Dell